

J-3920



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
)	Examiner: T. Campbell
Franco ZOBELE	:	
)	Group Art Unit: 3742
Application No.: 10/776,160	:	
)	
Filed: February 12, 2004	:	
)	
For: ELECTRICAL EVAPORATOR	:	June 1, 2005
WITH RATCHETING WICK)	
ADJUSTER	:	

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION

Sir:

In response to the Office Action dated April 7, 2005, Applicant requests favorable reconsideration and allowance of the subject application in view of the following remarks.

Claims 1-20 are currently pending, of which claims 1, 15, and 18 are independent.

In the Office Action dated April 7, 2005, claims 1-12, 14, and 16-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,078,728 to O'Rourke et al. Claims 13 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the O'Rourke et al. patent in view of U.S. Patent No. 5,647,053 to Schroeder et al. Applicant respectfully traverses these rejections.

Independent claim 1 relates to an evaporator that includes a housing adapted to receive a bottle with a wick protruding therefrom, an electrical plug assembly, a heating device, and an adjuster adapted to adjust a spacing of the wick relative to the heating device. The adjuster includes a ratcheting mechanism that retains the adjuster in any one of a plurality of discrete adjustment settings.

Independent claim 15 also relates to an evaporator including a housing adapted to receive a bottle with a wick protruding therefrom, an electrical plug assembly, a heating device, and an adjuster adapted to adjust a spacing of the wick relative to the heating device. As in claim 1, the adjuster recited in claim 15 includes a ratcheting mechanism. Claim 15 additionally recites that the electrical plug assembly includes a rotatable plug deck having a locking mechanism.

Independent claim 18 similarly relates to an evaporator including a housing adapted to receive a bottle with a wick protruding therefrom, an electrical plug assembly, a heating device, and an adjuster adapted to adjust a spacing of the wick relative to the heating device. As recited in claim 18, the adjuster includes a retaining dog that is biased into contact with the housing to retain the adjuster in any one of a plurality of discrete adjustment settings.

Applicant submits that the cited art does not teach or suggest such features of Applicant's invention, as recited in independent claims 1, 15, and 18.

The O'Rourke et al. patent discloses a heating device for dispensing a volatile ingredient. The volatile ingredient is provided in the form of a unitary reservoir block, which the O'Rourke et al. patent defines as "any substantially unitary mass of non-flowable material, including fibrous mats, non-flowing gels, plastic or other solid materials, and the like." (O'Rourke et al., col. 2, lines 29-33.) The O'Rourke et al. invention further includes an

advancement device by which a user can manually advance the reservoir block past a heat transfer site in order to expose different portions of the reservoir block to heat. The O'Rourke et al. patent teaches that different portions of the reservoir block can contain, for example, different volatile ingredients or different concentrations of the same volatile ingredient.

Significantly, the O'Rourke et al. patent does not teach or suggest the use of a bottle-and-wick arrangement, as recited in each of independent claims 1, 15, and 18. Nor does the O'Rourke et al. patent teach or suggest an adjuster for adjusting the spacing of the wick relative to a heating device, as is also recited in claims 1, 15, and 18. As noted above, the O'Rourke et al. invention is designed for use with a non-flowable volatile ingredient, which clearly is unsuitable for transport via a wick. Moreover, the O'Rourke et al. patent teaches away from a bottle-and-wick configuration, noting that wick-based prior art systems are "subject to spilling and the like." (O'Rourke et al., col. 1, lines 51-66.)

The Schroeder et al. patent apparently was cited for its teaching of a rotatable plug deck, as recited, for example, in claim 15. However, it is not at all clear whether the Schroeder et al. patent teaches or suggests a wick adjuster, let alone a wick adjuster that includes a ratcheting mechanism, as recited in independent claims 1 and 15, or a retaining dog, as recited in independent claim 18.


Applicant submits that none of the cited art teaches or suggests, either individually or in combination, the features of Applicant's invention recited in independent claims 1, 15, and 18. Applicant, therefore, requests favorable reconsideration and withdrawal of the rejections of those claims.

The rest of the claims variously depend from independent claims 1, 15, and 18, and are believed to be patentable for at least the same reasons. Further individual consideration of the dependent claims is requested.

Applicant submits that the subject application is in condition for allowance. Favorable reconsideration, withdrawal of the rejections set forth in the Office Action, and an early Notice of Allowance are requested.

Applicant's undersigned attorney can be reached in the Washington, D.C. office of Fitzpatrick, Cella, Harper & Scinto by telephone at (202) 530-1010. All correspondence should continue to be directed to the address given below for S.C. Johnson & Son, Inc.

Respectfully submitted,



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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818) FEE TRANSMITTAL For FY 2005		Complete if Known	
		Application Number	10/776,160
		Filing Date	February 12, 2004
		First Named Inventor	Franco ZOBELE
		Examiner Name	T. Campbell
		Art Unit	3742
		Attorney Docket No.	J-3920
<input type="checkbox"/> Applicant claims small entity status. See 37 C.F.R. 1.27			
TOTAL AMOUNT OF PAYMENT (\$)			

METHOD OF PAYMENT (check all that apply)

☐ Check
 ☐ Credit Card
 ☐ Money Order
 ☐ None
 ☐ Other (please identify): _____

☒ Deposit Account
 Deposit Account Number: 06-1205
 Deposit Account Name: Fitzpatrick, Cella, Harper & Scinto

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below
 ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 C.F.R. 1.16 and 1.17
 ☒ Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)** **Multiple Dependent Claims** **Fee (\$)** **Fee Paid (\$)**

20 - 20 or HP = 0 x 0 = 0 Fee (\$) Fee Paid (\$)

HP = highest number of total claims paid for, if greater than 20

Indep. Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

3 - 3 or HP = 0 x 0 = 0

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	_____ / 50 = _____	_____ (round up to a whole number) x _____	_____	_____

4. OTHER FEE(S) **Fees Paid (\$)**

Non-English Specification, \$130 fee (no small entity discount) _____

Other: _____

SUBMITTED BY		
Signature		Registration No. (Attorney/Agent) <u>44,749</u> Telephone <u>202-530-1010</u>
Name (Print/Type)	<u>Edmund J. Haughey</u>	Date: <u>June 1, 2005</u>

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.